

Application No.: 10/673,560

Docket No.: 2038-298

REMARKS

Applicants appreciate the Examiner's thorough review of the present application.

Claims 3 and 11-20 are pending in the application. Claims 1-2 and 4-10 have been cancelled without prejudice or disclaimer. Claim 11 has been rewritten in independent form including all limitations of base claim 1. Claims 3 and 12-20 remain unchanged notwithstanding the art rejections manifested in the Final Office Action. No new matter has been introduced through the foregoing amendments.

The above amendments place the instant application in better form on appeal and should be entered.

With respect to claims 3 and 11, the Examiner's decision to sustain his "optimization" argument, notwithstanding the extensive arguments presented in the last Amendment paper, is noted. The Examiner's rationale that "the ease of withdrawn is a result-effective variable" is not on point. In the *In re Antonie* (559 F.2d 618, 195 USPQ 6 (CCPA 1977) decision discussed in *MPEP* section 2144.05. II. B), the court states that the parameter alleged to be optimizable must first be recognized as a result-effective variable. Thus, the Examiner must show that the compressive force, with which the diapers are packaged and which the Examiner alleged to be optimizable, is an art-recognized result-effective variable. Since the Examiner has not proved this point, his reliance on *In re Aller* is improper.

With respect to claims 12-20, the Examiner's 35 U.S.C. 103(a) rejection is respectfully traversed, because the teaching reference of *Suzuki* is not combinable with the other applied references. In particular, *Suzuki* teaches away from tucking the folded parts inwardly of the garment, i.e., *Suzuki* teaches that the folded parts must be tucked outwardly. See, e.g., FIG. 3 and column 5, lines 50-57 of *Suzuki*. Thus, *Suzuki* is not combinable with *Woon* and *Ryan* which require the opposite, i.e., the folded parts should be tucked inwardly. The Examiner's 35 U.S.C.

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103(a) rejection of claims 12-20 is therefore inappropriate and should be withdrawn.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

LOWE HAUPTMAN & BERNER, LLP




Randy A. Noranbrock
Registration No. 42,940

for: Benjamin J. Hauptman
Registration No. 29,310

USPTO Customer No. 22429
1700 Diagonal Road, Suite 310
Alexandria, VA 22314
(703) 684-1111 BJH/KL/kdb
(703) 518-5499 Facsimile
Date: July 19, 2005

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